

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1073

Introduced by Senator Monning

February 16, 2016

An act to amend Section 105254 of, and to add Section 105250.5 to, the Health and Safety Code, relating to public health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1073, as amended, Monning. Lead-based paint.

Existing law requires the State Department of Public Health to implement and administer a residential lead-based paint hazard reduction program, as specified, including adopting regulations regarding accreditation of providers of health and safety training to employees who engage in or supervise lead-related construction work, as defined, and certification of employees who have successfully completed that training. Existing law requires the department to adopt regulations to establish and impose fees for those accreditations and certifications and for licensing entities engaged in lead-related occupations, as specified. Existing law requires those fees to be deposited into the Lead-Related Construction Fund, as specified. ~~Existing law creates in the State Treasury the Childhood Lead Poisoning Prevention Fund and makes~~

~~the revenue in the fund available for expenditure, upon appropriation, for particular purposes relating to childhood lead poisoning prevention.~~

This bill would require the department to update its regulations governing lead-related construction work, including training and certification for workers and accreditation for trainers in lead-safe work practices, to comply with existing state regulations and the United States Environmental Protection Agency's Lead Renovation, Repair, and Painting Rule, as specified. The bill would require the adoption of those regulations to include fee provisions for those certifications and accreditations. The bill would appropriate \$500,000 from the ~~Childhood Lead Poisoning Prevention Fund~~ *General Fund* to the department for the purposes of implementation until fees can be collected under these provisions, to be repaid upon determination by the Department of Finance that sufficient moneys are available in the Lead-Related Construction Fund to repay that amount. The bill would require the regulations adopted pursuant to these provisions to be adopted as emergency regulations, as specified.

Existing law requires certain persons engaged in lead construction work to have a certificate under these provisions. A violation of that provision is a crime.

This bill would further require ~~persons who receive compensation for firms, as defined, and at least one person onsite and employed by a firm,~~ doing renovation, repair, or painting work that will disturb lead-based paint *or presumed lead-based paint, as defined*, to have a certificate under these provisions. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ~~majority~~^{2/3}. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 105250.5 is added to the Health and
- 2 Safety Code, to read:
- 3 105250.5. (a) By July 1, 2018, the department shall review
- 4 and amend its regulations governing lead-related construction

work, including training and certification for workers and accreditation for trainers in lead-safe work practices to comply with Chapter 8 (commencing with Section 35001) of Division 1 of Title 17 of the California Code of Regulations adopted by the department pursuant to Sections 105250 and 124160 and the United States Environmental Protection Agency's Lead Renovation, Repair, and Painting Rule (40 C.F.R. 745).

~~(b) The amended regulations adopted pursuant to subdivision (a) shall include, but not be limited to, the following:~~

~~(1) A regulation requiring employers to maintain and provide access to written files for each separate job or phase of work, where the work process used is different or the work is performed at noncontiguous locations, noting all of the following:~~

~~(A) The address of the job.~~

~~(B) The exact physical location of the job at that address.~~

~~(C) The start and projected completion date.~~

~~(D) The name of a certified supervisor with sufficient experience and authority who is responsible for the lead-related work at that job.~~

~~(E) The name of a qualified person, who is responsible for scheduling any clearance testing, evaluation of sampling results, and conducting respirator fit testing and evaluating the results of those tests.~~

~~(F) The type of work to be performed, the work practices that will be utilized, and the potential for exposure.~~

~~(G) Records of prerenovation education for occupants.~~

~~(2) A regulation requiring a copy of the worker and firm certification to be provided before the start of the job to the prime contractor or other employers on the site and to be posted on the jobsite beside the Cal-OSHA poster.~~

(b) The amended regulations adopted pursuant to subdivision (a) shall include, but not be limited to, a regulation requiring a copy of the worker and firm certification to be provided before the start of the job to the prime contractor or other employers on the site and to be posted on the jobsite beside the Cal-OSHA Lead-Work Pre-Job Notification required by Section 1532.1(p) of Title 8 of the California Code of Regulations.

(c) Consistent with Section 105250, the department shall also adopt regulations establishing fees for the certifications or accreditations established pursuant to this section. The fees

1 imposed under this section shall be established at levels not
2 exceeding an amount sufficient to cover the costs of administering
3 and enforcing the standards and regulations adopted under this
4 section. The fees established pursuant to this section shall be
5 deposited into the Lead-Related Construction Fund pursuant to
6 Section 105250.

7 (d) Five hundred thousand dollars (\$500,000) is hereby
8 appropriated from the ~~Childhood Lead Poisoning Prevention Fund~~
9 *General Fund* to the department, to be used to develop, initiate,
10 and administer this section until adequate fees can be collected for
11 the ongoing administration of this section. These funds shall be
12 repaid to the ~~Childhood Lead Poisoning Prevention Fund~~ *General*
13 *Fund* upon determination by the Department of Finance that
14 sufficient moneys are available in the Lead-Related Construction
15 Fund to repay that amount. No interest shall be paid by the
16 Lead-Related Construction Fund at the time of repayment.

17 (e) (1) Notwithstanding the rulemaking provisions of the
18 Administrative Procedure Act (Chapter 3.5 (commencing with
19 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
20 Code), the department may implement and administer this section
21 through all-county letters or similar instructions from the
22 department until regulations are adopted. The department shall
23 adopt emergency regulations implementing these provisions no
24 later than July 1, 2017. The department may readopt any emergency
25 regulation authorized by this section that is the same as or
26 substantially equivalent to an emergency regulation previously
27 adopted under this section.

28 (2) The initial adoption of emergency regulations pursuant to
29 this section and one readoption of emergency regulations shall be
30 deemed an emergency and necessary for the immediate
31 preservation of the public peace, health, safety, or general welfare.
32 Initial emergency regulations and the one readoption of emergency
33 regulations authorized by this section shall be exempt from review
34 by the Office of Administrative Law. The initial emergency
35 regulations and the one readoption of emergency regulations
36 authorized by this section shall be submitted to the Office of
37 Administrative Law for filing with the Secretary of State, and each
38 shall remain in effect for no more than 180 days, by which time
39 final regulations may be adopted.

SEC. 2. Section 105254 of the Health and Safety Code is amended to read:

105254. (a) The following persons *and firms* engaged in the following types of lead construction work shall have a certificate:

(1) Persons who receive pay for doing lead hazard evaluations, including, but not limited to, lead inspections, lead risk assessments, or lead clearance inspections, in residential or public buildings.

(2) Persons preparing or designing plans for the abatement of lead-based paint or lead hazards from residential or public buildings.

(3) Persons doing any work designed to reduce or eliminate lead hazards on a permanent basis (to last 20 years or more) from residential or public buildings.

(4) Persons inspecting for lead or doing lead abatement activities in a public elementary school, preschool, or day care center.

(5) Persons doing lead-related construction work in a residential or public building that will expose a person to airborne lead at or above the eight-hour permissible exposure limit of 50 micrograms per cubic meter.

~~(6) Persons who receive compensation for doing renovation, repair, or painting work in a residential or public building that will disturb lead-based paint.~~

(6) Firms, as defined by Section 745.83 of Title 40 of the Code of Federal Regulations, and at least one person onsite and employed by a firm, doing renovation, repair, or painting work in a residential or public building that will disturb lead-based paint, as defined in Section 35033 of Title 17 of the California Code of Regulations, or presumed lead-based paint, as defined in Section 35043 of Title 17 of the California Code of Regulations, which regulations were adopted by the State Department of Public Health pursuant to Sections 105250 and 124160.

(b) Persons performing routine maintenance and repairs in housing are not required to have a certificate if they are not performing any of the activities listed under subdivision (a).

(c) The department may adopt regulations to modify certification requirements for persons engaged in lead construction work based on changes to state or federal law, or programmatic need.

(d) The department or any local enforcement agency may, consistent with Section 17972, enter, inspect, and photograph any

1 premises where abatement or a lead hazard evaluation is being
2 conducted or has been ordered, enter the place of business of any
3 person who conducts abatement or lead hazard evaluations, and
4 inspect and copy any business record of any person who conducts
5 abatement or lead hazard evaluations to determine whether the
6 person is complying with this section.

7 (e) ~~A-(1)~~ *Except as provided in paragraph (2), a violation of*
8 *this section shall be punishable by imprisonment for not more than*
9 *six months in the county jail, a fine of not more than one thousand*
10 *dollars (\$1,000), or by both that imprisonment and fine.*

11 (2) *A violation of paragraph (6) of subdivision (a) shall be*
12 *punishable by imprisonment for not more than six months in the*
13 *county jail or a fine of not more than thirty-seven thousand five*
14 *hundred dollars (\$37,500), or by both that imprisonment and fine.*

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.